

Market Analysis Report

November 2007



Mike Kreidler - *State Insurance Commissioner*

www.insurance.wa.gov

Background

In 2007, the Legislature passed and the Governor signed SSB 5717, generally referred to as the “Market Analysis” bill. The bill, creating new Chapter 48.37 Revised Code of Washington (RCW), requires the Insurance Commissioner to report to the Legislature on a number of issues, including rules and policies adopted by the agency to implement the law, as well as other related matters to benefit the Legislature’s understanding of the role played by the National Association of Insurance Commissioners (NAIC) in the regulation of Washington’s insurance industry. This report is submitted in fulfillment of that requirement.

Rule adoptions

The Market Analysis law instructs the agency to adopt rules in four specific areas:

- Records access
- A verification process for insurers to ascertain complaint validity
- Adoption of the NAIC’s:
 - ✓ Market Regulation Handbook
 - ✓ Market Conduct Uniform Examination Procedures
 - ✓ Standard Data Request
- A mediation process for insurer market conduct oversight issues

In accordance to this directive, the agency filed and adopted the Market Conduct Oversight Program – Chapter 284-37 Washington Administrative Code (WAC) on August 1, 2007. It took effect Sept. 1, 2007.

The Market Conduct Oversight Program (Chapter 284-37 WAC)

The new rule, adopted in accordance with the Administrative Procedures Act and with the assistance of state and national trade organizations and domestic insurers, addresses six areas of market analysis:

Definitions (284-37-010)

Provides definitions for Market Conduct Oversight Program rules with the intent of providing interested parties with information that will allow uniform application.

Procedures manuals (284-37-020)

Following the legislative mandate, this rule adopts the NAIC’s Market Regulation Handbook, Market Conduct Uniform Examinations Procedures, and Standard Data Request. It is intended to identify for insurers the processes and procedures that will be used in market conduct oversight. These procedures also are used in other states.
[Authority: 48.37.050(4) RCW]

Access to records (284-37-030)

This section provides insurers with the process that market conduct oversight personnel will use to make requests for information or documents. It also provides insurers with

a process they can use to question or challenge a market conduct oversight request for information or documents. It is intended to provide advance notice of the agency's process and a due process that insurers can use to challenge market conduct oversight requests. [48.37.040(3)(a) RCW]

Market conduct annual statement (284-37-040)

This section adopts the form for market conduct annual statements, providing the standard for determining when a required market conduct annual statement is filed. The intent of this rule is to provide insurers with advance notice of filing requirements in order to encourage compliance with mandatory requirements. [48.02.060 and 48.37.050(4) RCW]

Complaint verification (284-37-050)

This section provides a process that allows insurers to verify if insurer-specific complaints filed with the agency are properly applicable to the insurer. Under this rule, the complaints can be used for market conduct oversight purposes or transmitted to NAIC databases only after an insurer has an opportunity to verify its involvement in the complaint. The rule is intended to provide insurers with a due process to respond to complaints against them before a complaint is reported to the NAIC or used for market conduct oversight purposes. [48.37.040(4)(c) RCW]

Dispute resolution (284-37-060)

This section provides a mediation process to resolve insurer complaints about any part of the market conduct oversight process in a speedy and less expensive manner. The rule is intended to provide insurers with a less expensive, more expedient due process procedure for resolving conflicts over market conduct oversight activities. [48.37.120(3) RCW]

The role of the NAIC ...and a caveat

The NAIC plays a crucial and unique role in the regulation of Washington's insurance industry – generally in many ways, but particularly in market conduct oversight. With that in mind, it is essential to understand that the NAIC has no regulatory authority whatsoever over this state's insurance industry. That regulatory authority is vested singularly in the elected Insurance Commissioner through the laws of the state.

About the NAIC

Washington is an active participant in the NAIC, a voluntary association of the chief insurance regulators of individual states and U.S. territories. It provides a forum for the establishment, refinement and maintenance of our nation's system of state-based insurance regulation. This system leverages and enhances the states' proven expertise and effectiveness in the protection of insurance consumers. The NAIC provides simplification and increasing uniformity in the regulation of insurers, in contrast to the potential for disruption posed by either single or dual federal chartering.

A critical partner

In Washington State, the NAIC's role in the regulation of the state's insurance industry comes through the collection and dissemination of data. There are more than 1,400 insurers authorized to conduct business in this state. Of those authorized insurers, only 60 are organized under state law and subject to the agency's direct regulation. The agency's financial and market regulation resources are focused primarily on those 60 domestic Washington insurers. Without the data available from the NAIC, this agency would need to multiply its insurance regulation resources by a factor of at least 20 to adequately protect the state's consumers and meet its requirements under state law.

There's more

In addition, the NAIC also supports the agency's regulation of the insurance industry through its collection and publication of regulatory best practices. The NAIC is uniquely positioned to observe, document and publish these. Best practices may be found in:

- Model laws
- Model regulations
- Guidelines
- Handbooks (such as those adopted in Chapter 284-37 WAC as noted above)
- Forms
- Manuals
- And less formal, but extremely helpful, information-sharing between regulators

Without the NAIC's best practices resources, this state would need to significantly enhance its staff to research, develop and maintain the procedures, processes and forms that are used to maintain current levels and abilities for consumer protection.

Additional benefits

The NAIC's financial regulation accreditation system likewise benefits the agency's ability to regulate insurers by providing assurance that accredited states have at least a standard level of resources and expertise in financial regulation. This means that the agency can depend and rely on other state regulators with some comfort and assurance that Washington's consumers will be protected. This level of comfort and assurance allows the agency to focus its resources on Washington's domestic insurance industry. In turn, Washington's status as an accredited state allows other states the same comfort and assurance when relying on the agency's regulation. This arrangement also provides an added benefit to the insurance industry by reducing the number of financial exams by other states for which the domestic industry must pay.

Another resource

The NAIC also contributes to Washington State's regulation of the insurance industry by providing a reliable source of ratings for investments held by insurers. The NAIC's Securities Valuation Office provides regulators and insurers with professional valuations of securities held by insurers. This service allows for a national uniformity in how investments are recorded and

reported. Without this valuable resource, the agency would have to contract for similar services or hire staff to provide the service.

Table I (see page 6)

This table lists state statutes and identifies where the Legislature has directed the agency to use or consider NAIC resources for regulation. The table includes comments about the value and benefits that accrue to the agency from the NAIC.

Finally

In summary, if the NAIC's support and assistance in the regulation of Washington State's insurance industry was not available, the agency would have to significantly increase staff resources or contractors in order to maintain current levels of consumer protection. Additionally, because the NAIC provides services to all insurance regulators on a uniform basis, the services are provided more efficiently and less expensively than if any one state provided the services by itself.

Questions?

Feel free to contact:

Leslie Krier

Market Conduct Oversight Manager

360/725-7216 or lesliek@oic.wa.gov

Table I

Statute	Brief Description	OIC comment on value
48.03.010	Requires consideration of NAIC examiners handbook in planning financial exams.	Provides national uniformity in exam procedures through best practices.
48.03.025	Requires examiners to follow guidelines of NAIC examiner handbook.	Provides best practice guidance and national uniformity.
48.03.060	Adopts NAIC per diem rates for salary and expense reimbursement to examiners working on foreign or alien exams.	Uses NAIC data collection capability to research and develop reimbursement rates.
48.05.073 48.43.097 48.125.090	Requires insurers to file annual statements according to NAIC accounting practices and procedures manual.	Creates a national uniformity in reporting. Recognizes NAIC's ability to develop best practices for accounting and reporting.
48.05.250 48.44.095 48.46.080 48.125.090	Requires filing of annual financial statement in form, context, and according to instructions developed by NAIC.	Provides for uniformity of reporting. Adopts best practices for reporting. Utilizes NAIC resources in development and maintenance of forms.
48.05.435 48.43.305	Requires filing of Risk Based Capital reports with the NAIC, and requires RBC reports to be prepared according to NAIC instructions.	Provides for national uniformity of reporting. Adopts best practices for reporting. Utilizes NAIC resources in development and maintenance of forms.
48.12.030	Requires liability reserving consistent with NAIC.	Provides nationally uniform procedure. Adopts best practices for reserving. Utilizes NAIC resources for development and maintenance of reserving methodologies.
48.12.090	Requires loss reserves to be set consistent with the NAIC.	Provides nationally uniform procedure. Adopts best practices. Utilizes NAIC resources for development and maintenance of reserving methodologies.
48.12.100	Requires unallocated liability loss expense to follow NAIC accounting practices and procedures manual.	Provides nationally uniform procedure. Adopts best practices. Utilizes NAIC resources for development and maintenance of reserving methodologies.
48.12.120	Requires workers compensation loss reserves to be consistent with NAIC.	Provides nationally uniform procedure. Adopts best practices. Utilizes NAIC resources for development and maintenance of reserving methodologies.
48.12.170 48.12.180	Requires valuations of stocks and bonds to be consistent with the NAIC.	Provides nationally uniform procedures. Adopts best practices.
48.12.190 48.12.200	Requires valuations of real property, and purchase money mortgages to be consistent with the NAIC.	Provides nationally uniform procedures. Adopts best practices.
48.13.180	Requires investments in foreign securities to be rated SVO1.	Provides nationally uniform procedures. Utilizes NAIC resources to rate and value securities held as insurer investments.
48.37.050	Directs the OIC to adopt by rule the NAIC products: Market Regulation Handbook, Market Conduct Uniform Examinations Procedures, Standard Data Request, and Market Conduct Annual Statement.	Provides nationally uniform procedures and forms. Adopts best practices.
48.13	Establishes Washington's membership in the Interstate Insurance Product Regulation Compact	Provides for a single point of form filing review for life, disability income, long-term care insurance and annuities by a Commission made up of member states.